

IN RE: ABBOTT LABORATORIES, et al.,)	
PRETERM INFANT NUTRITION PRODUCTS)	MDL No. 3026
LIABILITY LITIGATION)	
)	Master Docket No. 22 C 71
This Document Relates to:)	
ALL ACTIONS)	Judge Rebecca R. Pallmeyer
)	

The parties have negotiated a protocol for producing documents and electronically stored information but disagree with respect to a single provision, Section B(1)(h), which deals with production of Paper Documents. Defendants contend that Plaintiffs are asking that the producing party log non-responsive documents; the court does not read Plaintiffs' proposal as imposing such a requirement. The court agrees with Defendants, however, that Plaintiffs have not established the need for a producing party to "provide a general description of the categories of documents within [each] container [that are] withheld from production." Instead, in the court's view, a description of the type of container in which documents are found (for example, binder vs. envelope) should be sufficient to put the discovering party on notice that the container also contains documents that should, in fairness, be produced.

If, in the ordinary course of business, responsive documents are maintained in a file, folder, envelope, binder, notebook or similar container used to store documents, all contents therein shall be reviewed for production and privilege. The producing party shall describe in a general way the nature of the container in which the discoverable and responsive documents were found and state whether that container also contains non-responsive documents. Non-responsive documents need not be logged, scanned, or otherwise identified. Should the discovering party seek additional information concerning the nature of non-responsive documents, the court will, absent agreement of the parties, consider a request for such information, on a showing that circumstances of storage support a good faith basis for that request.

The parties are invited to include such language in their otherwise-agreed protocol and submit it for the court's entry.

ENTER:

Date: October 12, 2022

A handwritten signature in black ink, appearing to read "Rebecca R. Pallmeyer", written over a horizontal line.

REBECCA R. PALLMEYER
United States District Judge